



California Fair Political Practices Commission

March 30, 1989

Harold B. Olsen
4010 Sepulveda Blvd.
Torrance, CA 90505-2388

RE: Your Request for Advice
Our File No. A-89-080

Dear Mr. Olsen:

You have requested advice on behalf of Assemblymember Gerald Felando concerning the campaign disclosure provisions of the Political Reform Act of 1974.^{1/}

QUESTIONS

1. Are contributions received by a candidate prior to January 1, 1989, cumulated with contributions received after January 1, 1989, from the same contributor to determine whether the contributions received are within the contribution limitations established by Proposition 73?

2. Are contributions received on and after July 1, 1989, cumulated with contributions received prior to that date for the purpose of determining whether the contributions received are within the contribution limitations established by Proposition 73?

CONCLUSIONS

1. Pending further action by the Commission or the appellate courts, all contributions received from a single contributor from July 1, 1988, through June 30, 1989, must be cumulated to determine whether the contribution limitations have been met.

As an example, if individual A contributed \$500 to candidate B after July 1, 1988, individual A may not contribute more than \$500 to candidate B for the rest of the fiscal year (July 1, 1988 through June 30, 1989), regardless of whether candidate B spent the first \$500 prior to January 1, 1989.

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

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2. Contributions received after July 1, 1989, are not cumulated with contributions received prior to that date for purposes of determining whether the contribution limitations have been met.

As an example, if individual A contributed \$1,000 to candidate B prior to July 1, 1989, individual A may contribute up to \$1,000 between July 1, 1989, and June 30, 1990, to candidate B.

FACTS

All of Assemblymember Felando's campaign funds collected during the calendar year 1988 were expended prior to January 1, 1989, except for \$360. The \$360 has been placed in a separate account and will be used to retire campaign debts for the June 1988 primary election.

Assemblymember Felando filed forms 501 and 502 to raise money for reelection to the Assembly in 1990. All contributions received on and after January 1, 1989, have been placed in a separate account corresponding to the Form 502 filed by Assemblymember Felando.

Assemblymember Felando still has campaign debts from the June and November elections of 1988.

ANALYSIS

Sections 85301, 85302, 85303, and 85305 establish contribution limitations based on a fiscal year (July 1 - June 30). (Section 85102(a).) Therefore, any contributions received since July 1, 1988, must be cumulated with contributions received from the same contributor through June 30, 1989, to determine whether the contribution limitations have been met.^{2/}

^{2/}The Commission did adopt a regulation which would have required cumulation of pre-1989 contributions only if the candidate elected to carryover pre-1989 campaign funds pursuant to a procedure established to bring these pre-1989 funds into compliance with Proposition 73's contribution limits. However, as discussed below, this regulation has been invalidated by court action. Pending further action by the Commission or the appellate courts, we are advising that contributions made between July 1 and December 31, 1988, must be cumulated with contributions made during the second half of the fiscal year (i.e., January 1 to June 30, 1989). At its April 4 meeting, the Commission will consider a regulation which may change this advice.

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In order to raise funds to pay off the 1988 debt, a Form 501 must be filed prior to soliciting or receiving contributions for that purpose. (Section 85200.) This Form 501 is in addition to the one currently on file for reelection to the Assembly in 1990. After receiving funds to pay off the 1988 debt, Assemblymember Felando must open a new bank account, place the funds in that bank account and, within 24 hours, file a new Form 502 which corresponds to that bank account. (Section 85201.) The Form 410 must be filed with the Secretary of State within 10 days of receiving contributions of \$1,000 or more. (Section 84101.)

When soliciting funds, you must specify the account for which you are soliciting those funds. (Regulation 18523(b).) Once the funds are deposited into the account for which the solicitation was made, the funds may not be transferred to any other account. (Regulation 18523(a).) If contributions are received without solicitation and without designation by the contributor as to the campaign account for which they are intended, Assemblymember Felando may designate the contributions for any of his accounts. (Regulation 18523.)

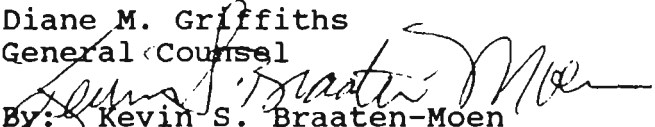
Regarding expenditure of campaign funds received prior to January 1, 1989, such funds should not be used to "support or oppose a candidacy." (See Regulation 18536.2, enclosed.) In addition, the contribution limitations apply to all contributions received from a single contributor during the current fiscal year (July 1, 1988 through June 30, 1989). Therefore, contributions received on or after January 1, 1989, must be aggregated with any contributions received from the same contributor since July 1, 1988.

The Commission has decided to appeal the Los Angeles County Superior Court decision which invalidated the regulations which permitted certain funds received prior to January 1, 1989, to be used after that date to support or oppose a candidacy. Future court actions and regulations may change this advice. (See footnote 2, supra.) Before using any funds received prior to January 1, 1989 or any funds received on or after January 1, 1989, which may exceed the contribution limitations, to support or oppose a candidacy, please contact this office to receive the most current advice.

If you have additional questions, please contact me at (916) 322-5662.

Sincerely,

Diane M. Griffiths
General Counsel


By: Kevin S. Braaten-Moen
Political Reform Consultant

HAROLD B. OLSEN, D.D.S., INC.

4010 Sepulveda Boulevard
Torrance, California 90505-2388
(213) 378-6218

FPPC
FEB 2 10 25 AM '89

February 1, 1989

Fair Political Practices Commission
428 "J" Street - Suite 800
Sacramento, California 95814

Attention: Mr. Kevin Braatenmoen

Dear Kevin:

As per our telephone conversation, I would appreciate a ruling or confirmation from the FPPC regarding Assemblyman Felando's campaign accounting and reporting requirements. Our situation is rather unique due to the following facts:

1. All of our campaign funds collected during the calendar year of 1988 and half fiscal year beginning July 1, 1988, have been expended for the November, 1988 election with the exception of \$360.00 which is in a separate account to be used to pay campaign debts for the June, 1988 primary election.
2. We have retained our previous account with the Bank of San Pedro. As of January 1, 1989, our balance was zero.
3. We have filed forms 501 and 502.
4. We still have campaign debts owing for the June and November, 1988 election.
5. All campaign contributions received on January 1, 1989 and thereafter are accounted and in our Bank of San Pedro account that began with a zero balance.

It is my understanding that in compliance with provisions of propositions 68 and 73 that the following will apply to our campaign requirements:

Fair Political Practices Commission
Sacramento, California 95814

Attention: Mr. Kevin Braatenmoen

1. Beginning January 1, 1989, the contribution limits for individuals and other person will be \$1000.00 to a candidate, \$2500.00 from a political committee, \$5000.00 from a political party and broad based political committee.

A. Any amount contributed by the above mentioned contributors during 1988 will be of no consideration or consequence concerning proposition 68 or 73, since these funds were expended for the 1988 campaign.

2. Furthermore, beginning July 1, 1989, the campaign contributing limits will begin again with a new limit of \$1000.00 for individuals and other persons, \$2500.00 from a political committee and \$5000.00 from a political party and broad based political committee will apply.

A. As an example, if Mrs. X contributes \$1000.00 in January, 1989, she will be eligible to contribute \$1000.00 again on July 1, 1989 and the same will apply to PAC's and the broad based political committee.

Since a number of contributors, PAC's and broad based committee's are confused and unsure of the new regulations regarding propositions 68 and 73, I would greatly appreciate your confirmations as soon as possible.

Thank you for all of your help and assistance during this period of transition.

I also understand that until after 1990, we can retain our present ID number and do not have to refile Form 410 with the Secretary of State.

Sincerely yours,



Harold B. Olsen, Treasurer for
Assembly Gerald N. Felando
51st Assembly District
ID # 781098

HBO:rmc